

U. S. S E N A T E

Republican Policy Committee

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Clinton Opposes Republican Environmental Reforms

'96 Republican Platform Stressed Positive and Proactive Agenda

The 1996 Republican Platform summarized the Republican environmental agenda as follows:

- assure that the air and water are clean and safe for our children and future generations;
- assure that everyone has access to public outdoor recreation areas; and that historic and environmentally significant wilderness and wetlands areas will be protected without compromising our commitment to the rights of property owners;
- set reasonable standards for environmental improvement that incorporate flexibility, acknowledge geographic differences, and create incentives for development of new technologies;
- base all government environmental decisions on the best peer-reviewed scientific evidence, while encouraging advancements in research;
- achieve progress, as much as possible, through incentives rather than compulsion, and improve compliance by letting States and localities play a greater role in setting and maintaining standards . . . ; and
- assure private property owners of due process to protect their rights, and make environmental decisions in concert with those whose homes, businesses, and communities are directly affected."

Clinton Opposes the Republican Agenda

In the last two years, the Clinton Administration's rhetoric has included some of the Republican themes of cooperation and flexibility. However, rather than carrying out the promises of reform, many of these regulations will exacerbate, not correct, the tried-and-failed regulatory approaches of the past, including the emphasis on command-and-control, one-size-fits-all, federal government-knows-best, punishment-not-cooperation, scare-story-not-sound-

science, better-safe-than-sorry, and inflexibility. Specifically, the Clinton Administration prevented Republicans from a host of much needed environmental legislation:

- Correcting the fundamentally flawed Superfund program;
- Modifying wasteful rules in the solid waste disposal act;
- Eliminating perverse disincentives in the Endangered Species Act;
- Improving wetlands conservation so that landowners' rights are not trampled;
- Reevaluating our clean air act regulatory programs to reduce procedural hurdles that result in no environmental benefit but stifle innovation and economic growth;
- Encouraging cooperation with state and local governments and individuals in achievement of environmental goals by supporting state self-audit laws; and
- Prioritizing and standardizing health risk analyses so that scarce resources could be focused on the most acute health problems.

Needed Superfund Changes Thwarted

The prime example of the Clinton Administration's opposition to implementation of innovative Republican principles has been its opposition to Republican attempts to reform the flawed Superfund cleanup program. In his 1993 State of the Union Address, President Clinton stated, "I would like to use Superfund to clean up pollution for a change, and not just pay lawyers." Once again, the Clinton Administration has preferred rhetoric to action, for his agencies have fought meaningful reforms while falsely claiming great advances.

- Too Much Litigation, Not Enough Cleanup: More than half of the \$30 billion already spent on Superfund has gone for litigation and administration. In other words, trial lawyers have profited from the current flawed and unfair liability scheme, while toxic waste sites wait to be cleaned up. In the almost 16 years since the Superfund law was passed, only 14 percent of the 1,300 sites on the National Priorities List have been completely cleaned up. To end the litigation nightmare and speed up cleanups, Republicans tried to bring to the respective Houses comprehensive reform bills that would change the current joint, strict, several, and retroactive liability scheme that currently requires firms to fight mere identification with a site because they would then be potentially liable for the entire cost of cleaning up that site. Republican reforms provided that:
 - 1) legal disposal activities that occurred prior to the passage of the original Superfund law in 1980 would not be caught in the liability net; and

2) a fair, proportional liability system would be established to clean up wastes disposed of after the date Superfund was passed.

The Clinton Administration stridently opposed the Republican litigation changes as letting "polluters off the hook," even though the cleanups would have been paid for by the general taxes paid by the polluting industries. The Administration provided no meaningful alternative to the current litigation monster.

- Flexibility and State Control: Republican Superfund reform bills also would have tailored cleanup standards to the future uses planned for the site, and would have allocated resources to clean-up sites where there are real risks, and cooperated with citizens, states, and localities who want to help. Opposition from the Clinton Administration to these initiatives focused on retaining excessive EPA control of cleanups, despite the strong track record of many states in conducting successful voluntary cleanups.
- Brownfields: Republicans in the states have been leaders in returning contaminated sites to productive use under "Brownfields" programs. These programs tailor cleanup standards appropriate for expected future use, thus enabling environmental cleanup and economic development. Accordingly, as an essential component of comprehensive Superfund reform legislation, Republicans would have removed disincentives in current federal law in order to allow states to expand their innovative "Brownfields" programs.

Clinton, on the other hand, would continue current delays and unnecessary costs by simply throwing Superfund money at tax credits, rather than providing the states with the legal tools to work with those companies who are volunteering to clean up these sites. In addition, to the extent Clinton's sole focus on Brownfields sites would accelerate Brown fields site cleanups, those cleanups will be funded at the expense of cleaning up other sites that may pose greater health risks. Moreover, the Clinton Administration does not allow states to waive liability in exchange for voluntary cleanup agreements, thus condemning their own Brownfields program to the same delays and excessive costs.

Republicans Attempt to Centralize Spent Nuclear Fuel Storage

In the face of a presidential veto threat, the Senate passed legislation that would finally achieve one central storage site for spent nuclear fuel and high-level nuclear waste. Currently, about 30,000 metric tons of spent fuel are not in temporary storage at nuclear power plants in some 75 sites in 34 states, posing potential environmental and security risks. In addition, 23 civilian nuclear reactors will run out of room in their temporary storage pools by 1998, and an additional 55 will run out of storage space by 2010.

Republicans Attempt to Reform Endangered Species Act

Republicans attempted comprehensive reforms to the Endangered Species Act based on conserving our animal and plant resources. The reforms recognized that the current Endangered Species Act is seriously flawed and, indeed, is often counterproductive because of its reliance on federal command-and-control measures. Clinton Democrats prevented movement of the bills, clinging instead to the current, discredited ESA provisions have devastated the environment they pretend to protect by virtually encouraging landowners to remove habitat and species to avoid government seizure of their property. Republicans will improve the ESA by implementing an incentive-based program in cooperation with state, local, and tribal governments and private individuals to recognize the critical relationship between a healthy environment and a healthy economy founded on private property rights and shared responsibility.

Republicans Push Cooperation, Not Punishment

Many states have enacted environmental education and "voluntary self-audit" laws to encourage people to find and correct pollution; the Congress should remove disincentives for states to achieve these goals. The Clinton Administration, chanting "Polluters Must Pay," has fought Republicans in the states and proposed legislation in both Houses of Congress to grant the states the power to encourage individuals and companies to look for unintentional pollution emissions and work cooperatively to fix those mistakes. Currently, the EPA insists on punishing people for being emitters once they have uncovered the accidental emissions, worrying more about body count than environmental success. EPA has been threatening states (particularly Texas, Michigan, and Idaho) with disapproval of their Clean Air Act permit programs if the states do not repeal their self-help laws' privilege protections. EPA is expected to extend these threats to include disapproval of additional programs. A total of 19 states already have passed "self-help" audit laws, but EPA is threatening to bring enforcement actions against companies based on the information revealed in the audits. Congressional attempts to amend federal environmental laws to prevent permit limited immunity for emissions discovered through self audits has been vigorously opposed by the Clinton Administration and Congressional Democrats.

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